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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 JUSTIN PAULO,
9 Plaintiff,

10 v.

11 BRIAN WILLIAMS, et al.,
12 Defendants.

Case No. 2:19-cv-00474-APG-NJK

ORDER

[Docket No. 42]

13 Pending before the Court is Plaintiff's motion for an order directing Defendants to permit
14 him to access inmate counsel substitute. Docket No. 42. The Court has considered Plaintiff's
15 motion and Defendants' response. Docket Nos. 42, 44. No reply has been filed, and the time to
16 do so has now passed. *See* Docket. The motion is properly resolved without a hearing. *See* LR
17 78-1. For the reasons discussed more fully below, the Court **DENIES** Plaintiff's motion.

18 **I. BACKGROUND**

19 Plaintiff is an inmate proceeding *pro se* in this action pursuant to 28 U.S.C. § 1915. On
20 February 18, 2020, United States District Judge Andrew P. Gordon issued a screening order,
21 permitting Plaintiff to proceed on an Eighth Amendment claim against Defendants. Docket No.
22 6. Plaintiff has submitted numerous filings, including the instant motion, with assistance from
23 inmate Jesse A. Ross. *See, e.g.*, Docket Nos. 34, 37, 38, 41, 42. Plaintiff and inmate Ross are no
24 longer housed in the same unit; as a result, pursuant to the Nevada Department of Corrections'
25 ("NDOC") policy, Plaintiff may consult other inmates in his unit for legal assistance, but may not
26 avail himself of inmate Ross' continued legal assistance. *See generally* Docket Nos. 42, 44.
27 Plaintiff, therefore, seeks a Court order directing Defendants to permit him access to inmate Ross
28 for continued legal assistance. Docket No. 42.

1 II. LEGAL STANDARD

2 An inmate may not be barred from seeking assistance from other inmates when pursuing
 3 claims arising from constitutional violations, “unless and until the State provides some reasonable
 4 alternative to assist inmates[.]” *Wolff v. McDonnell*, 418 U.S. 539, 578 (1974) (citing *Johnson v.*
 5 *Avery*, 393 U.S. 483, 490 (1969)). However, “[e]ven in the absence of such alternatives, the State
 6 may impose reasonable restrictions and restraints upon the acknowledged propensity of prisoners
 7 to both abuse the giving and seeking of assistance[.]” *Johnson*, 393 U.S. at 490. “When an
 8 adequate method of access is provided and an inmate does not avail himself of it, he may not insist
 9 on an avenue of his choosing.” *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981).

10 III. ANALYSIS

11 Plaintiff asks the Court to issue an order that permits him to confer with inmate Ross for at
 12 least one hour per week and that provides inmate Ross with all filings submitted in this case.
 13 Docket No. 42 at 1, 14. In support of his request, Plaintiff submits that Defendants intentionally
 14 abridged his constitutional right to access the courts by transferring him, without adequate
 15 justification, to a unit in which inmate Ross is not housed. *Id.* at 8–9. Plaintiff further submits
 16 that, pursuant to NDOC policies, “inmates may assist each other in the preparation of legal
 17 documents and may act as counsel substitute[.]” *Id.* at 9. Plaintiff submits that he requires inmate
 18 Ross’ assistance to prepare dispositive motions. *Id.* at 12.

19 In response, Defendants submit that, while Plaintiff may seek assistance from fellow
 20 inmates, he is not entitled to assistance from an inmate of his choosing. Docket No. 44 at 1.
 21 Defendants submit that NDOC policies permit Plaintiff to access library law assistants and to
 22 request assistance from inmates within his unit. *Id.* at 2. Defendants further submit that NDOC
 23 officers currently visit Plaintiff’s unit twice a day to collect legal copy requests and to deliver
 24 requested materials. *Id.* In addition, Defendants submit that NDOC has severe concerns with
 25 allowing inmate Ross access to Plaintiff. *Id.* at 3. Specifically, Defendants submit that, based on
 26 inmate Ross’ criminal history, he may exploit Plaintiff and use his relationship with Plaintiff to
 27 obtain special privileges to visit other units. *Id.* Defendants further submit that NDOC “discovered
 28 that Inmate Ross was falsely claiming to be a law library clerk and using it as an excuse to go

1 between the units.” *Id.* Defendants submit that “NDOC has an interest in preventing Inmate Ross
2 from exploiting inmates through the guise of providing legal assistance.” *Id.* at 4.

3 The Court finds that Plaintiff is not entitled access to inmate Ross and that he has
4 appropriate access to legal assistance. “[W]hen an adequate method of access is provided and an
5 inmate does not avail himself of it, he may not insist on an avenue of his choosing.” *Storseth*, 654
6 F.2d at 1353. While Plaintiff may prefer to obtain assistance from inmate Ross, it is clear that
7 Plaintiff has the opportunity to avail himself of other inmates in his unit and of assistance generally
8 available to all inmates.

9 **IV. CONCLUSION**

10 Accordingly, Plaintiff’s motion for an order directing Defendants to permit him to access
11 inmate counsel substitute, Docket No. 42, is hereby **DENIED**.

12 IT IS SO ORDERED.

13 Dated: August 4, 2021

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16 Nancy J. Koppe
17 United States Magistrate Judge
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